

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1997

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Legislative Document

No. 1176

S.P. 357

In Senate, February 25, 1997

**An Act to Provide Continuity and Flexibility for Long-term Care.**

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Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator BENNETT of Oxford.  
Cosponsored by Representative GAGNE of Buckfield and  
Representative: MARVIN of Cape Elizabeth.

Be it enacted by the People of the State of Maine as follows:

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4       Sec. 1. 22 MRSA §1708-A is enacted to read:

6       §1708-A. Long-term care reimbursement

8       No later than January 1, 1998 and notwithstanding sections  
10 1708 and 7907, the department shall adopt rules to compensate  
12 long-term care facilities and residential care facilities for  
14 services provided to persons covered by the Medicaid program and  
persons for whose care the department is otherwise liable, in  
accordance with this section. Rules adopted pursuant to this  
section are major substantive rules as defined by Title 5,  
chapter 375, subchapter II-A.

16       1. Uniform compensation system. The department shall  
18 reimburse long-term care facilities licensed under sections 1811  
20 and 1811-A or chapters 1663 and 1665 for all services provided to  
22 eligible patients or residents in accordance with a single  
payment system that applies the same reimbursement principles to  
all facilities. The department may not establish a so-called  
"flat rate." The department shall establish rules concerning  
reimbursement that:

24       A. Take into account the cost of providing care and  
26 services in conformity with applicable state and federal  
28 laws, rules, regulations and quality and safety standards;

30       B. Are reasonable and adequate to meet the costs incurred  
32 by efficiently and economically operated facilities to  
deliver care requiring comparable resources to patients  
requiring care of comparable intensity;

34       C. Are consistent with federal requirements relative to  
36 limits on reimbursement under the United States Social  
Security Act, Title XIX as applied separately with respect  
to each level of care delivered by the facility;

38       D. With respect to those services that can be provided only  
40 in a long-term care facility, establish a specific increment  
42 to take into account the increased cost of any excise, gross  
receipts or similar tax first imposed by the State on or  
after January 1, 1993; and

44       E. Do not provide for any reduction in the rate of  
46 reimbursement based upon the percentage or number of beds  
48 occupied in the facility or the proportion of the facility's  
total capacity that is in use during a given period.

2           2. Resource-based rates. The rules adopted by the  
3           department in accordance with subsection 1 must include a case  
4           mix adjustment methodology that varies the compensation for  
5           services based on the resources required to care for individual  
6           patients or residents without regard to whether the facility  
7           providing the care is licensed under section 1811, section  
8           1811-A, chapter 1663 or chapter 1665, except to the extent that  
9           the nature of the facility's license may directly cause the  
10           facility to incur additional taxes, fees or other costs. The  
11           case mix adjustment system must reflect the relative value of  
12           resources required to provide care to residents with differing  
13           needs.

14           Sec. 2. 22 MRSA §1811, as repealed and replaced by PL 1989,  
15           c. 878, Pt. A, §58, is amended to read:

16           **§1811. License required; definitions**

17           No person, partnership, association or corporation, nor any  
18           state, county or local governmental units, may establish, conduct  
19           or maintain in the State any hospital, sanatorium, convalescent  
20           home, rest home, nursing home, ambulatory surgical facility or  
21           other institution for the hospitalization or nursing care of  
22           human beings without first obtaining a license therefor.  
23           Hospital, sanatorium, convalescent home, rest home, nursing home,  
24           ambulatory surgical facility and other related institution,  
25           within the meaning of this chapter, means any institution, place,  
26           building or agency in which any accommodation is maintained,  
27           furnished or offered for the hospitalization of the sick or  
28           injured or care of any aged or infirm persons requiring or  
29           receiving chronic or convalescent care. Nothing in this chapter  
30           may apply to hotels or other similar places that furnish only  
31           board and room, or either, to their guests or to such homes for  
32           the aged or blind as may be subject to licensing under any other  
33           law. Nothing in this chapter precludes a nursing home from  
34           receiving reimbursement for residential care when the nursing  
35           home provides residential care as defined in section 7901-C.

36           Sec. 3. 22 MRSA §1811-A is enacted to read:

37           **§1811-A. Single license for long-term care facility**

38           A facility that meets the separate licensing requirements  
39           for licensing as a nursing home under section 1811 and for  
40           licensing as a residential care facility under chapter 1663 or  
41           chapter 1665 may obtain a single license to provide both types of  
42           service as a long-term care facility. The facility may not be  
43           required to maintain physically separate beds or other facilities  
44           for the provision of residential care and nursing home care.

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2           **Sec. 4. 22 MRSA §3174-I, sub-§1, ¶E**, as amended by PL 1995, c.  
696, Pt. B, §1, is further amended to read:

4           E. The department shall perform a reassessment of the  
6 individual's medical needs when the individual becomes  
financially eligible for Medicaid benefits.

8           ~~(1) If the individual, at both the admission~~  
9 ~~assessment and any reassessment, is determined not to~~  
10 ~~be medically eligible for the services provided by the~~  
11 ~~nursing facility, and is determined not to be medically~~  
12 ~~eligible at the time of the determination of financial~~  
13 ~~eligibility, the nursing facility is responsible for~~  
14 ~~providing services at no cost to the individual until~~  
15 ~~such time as a placement at the appropriate level of~~  
16 ~~care becomes available. After a placement becomes~~  
17 ~~available at an appropriate level of care, the nursing~~  
18 ~~facility may resume billing the individual for the cost~~  
19 ~~of services.~~

20           (1) If the individual, at both the admission  
21 assessment and any reassessment, is determined not  
22 medically eligible at the time of the determination of  
23 financial eligibility, the nursing facility is  
24 responsible for providing residential care services to  
25 the individual at the reimbursement rates established  
26 under section 1708-A. If the nursing facility is  
27 unable to provide residential care in accordance with  
28 rules established by the department for such care, then  
29 the facility shall provide nursing home care until  
30 placement becomes available at an appropriate level of  
31 care and reimbursement must be provided by the  
32 department in accordance with section 1708-A at the  
33 applicable case mix adjusted rate.

34           (2) If the individual is initially assessed as needing  
36 the nursing facility's services under the assessment  
38 criteria and process in effect at the time of admission  
or is admitted as covered by Medicare for nursing  
40 facility services, but is reassessed as not needing  
those services at the time the individual is found  
42 financially eligible, then the department shall  
reimburse the nursing facility for services it provides  
44 to the individual in accordance with the principles of  
reimbursement for residential care facilities adopted  
46 by the department pursuant to section 3173. In  
calculating the fixed-cost component of per diem rates  
48 for nursing facility services, the department shall  
exclude days of service for which reimbursement is  
50 provided under this subparagraph.

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Sec. 5. 22 MRSA §7902-A, sub-§6 is enacted to read:

6. Restriction. Rules established by the department for residential care facilities may not require or be construed to require that residential care provided by a nursing home must be provided in beds or other facilities that are physically separate from those in which nursing home care is delivered.

#### SUMMARY

This bill provides for a uniform system of reimbursement for long-term care, based on the relative severity of a patient's needs or "case mix" rather than the particular, historical level of care for which a facility was licensed. It allows a facility to obtain a single license to provide both nursing home care and residential care in the same facility and beds and provides that a licensed nursing home may also provide residential care under its preexisting license.